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November 8, 2002

FEDERAL COMMUNICATIONS
OFFICE OF THE SECRETARY

BY HAND

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, DC 20554

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**EX PARTE
PRESENTATION**

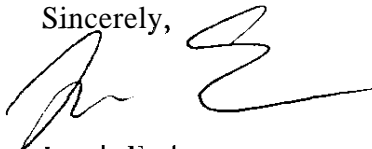
Re: CC Dkt. NO 01-339

Dear Ms. Dortch:

On November 8, 2002, John Ivanuska, VP Regulatory & Carrier Relations of Birch Telecom, Inc., and the undersigned of this law firm met with Rob Tanner and Aaron Goldberger of the Wireline Competition Bureau. We discussed the role the unbundled network element platform ("UNE-P") plays in Birch's plans, both as a transition mechanism to a facilities-based strategy and as a long-term service vehicle, and Birch's views regarding the continuing need for UNE-P. The attached materials, which summarize our presentation, were distributed at the meeting.

If you need any further information, or have any questions, please do not hesitate to call me.

Sincerely,



Jacob Farber

Enclosure

cc: Rob Tanner
Aaron Goldberger

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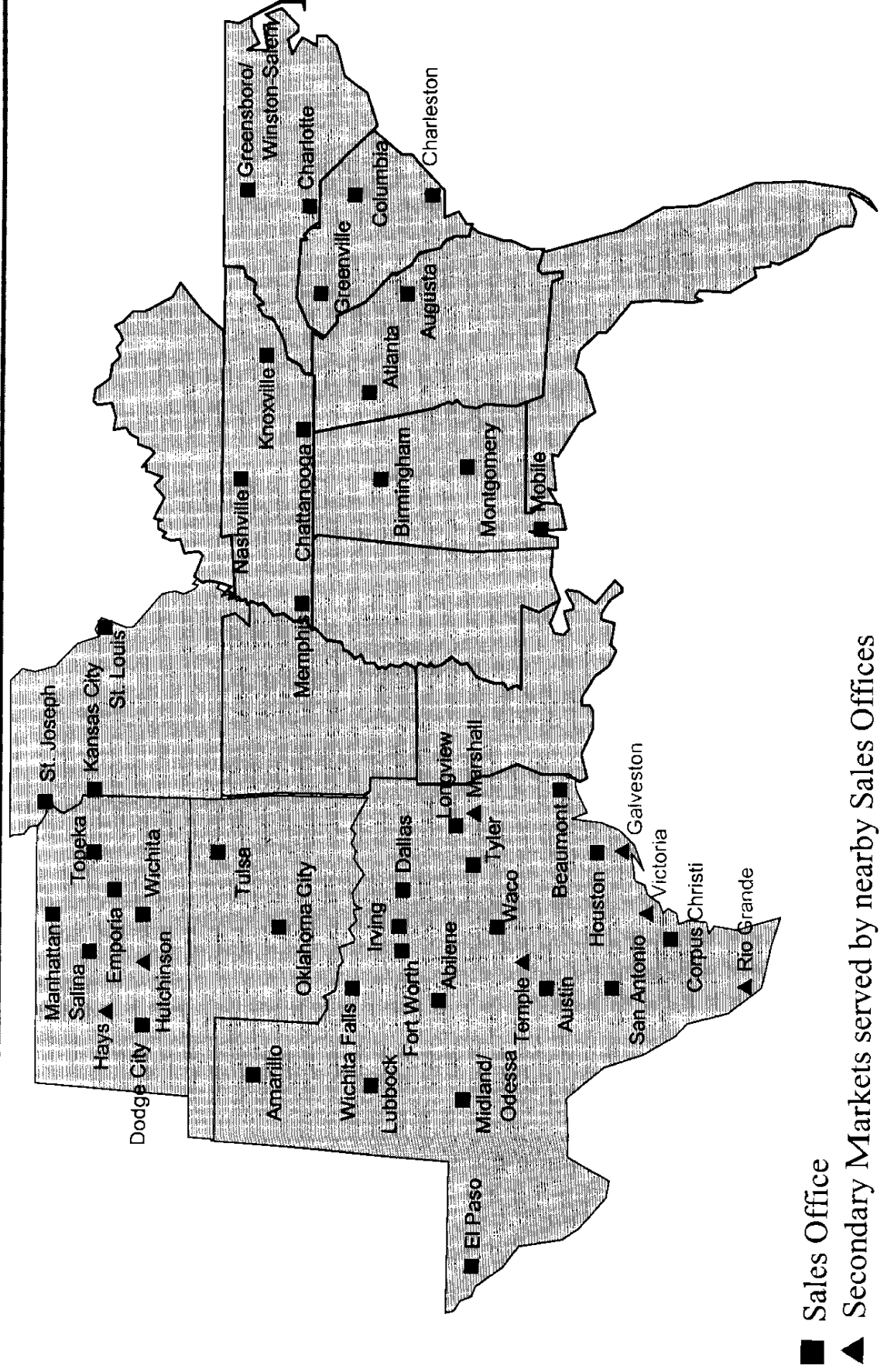


November 8, 2002

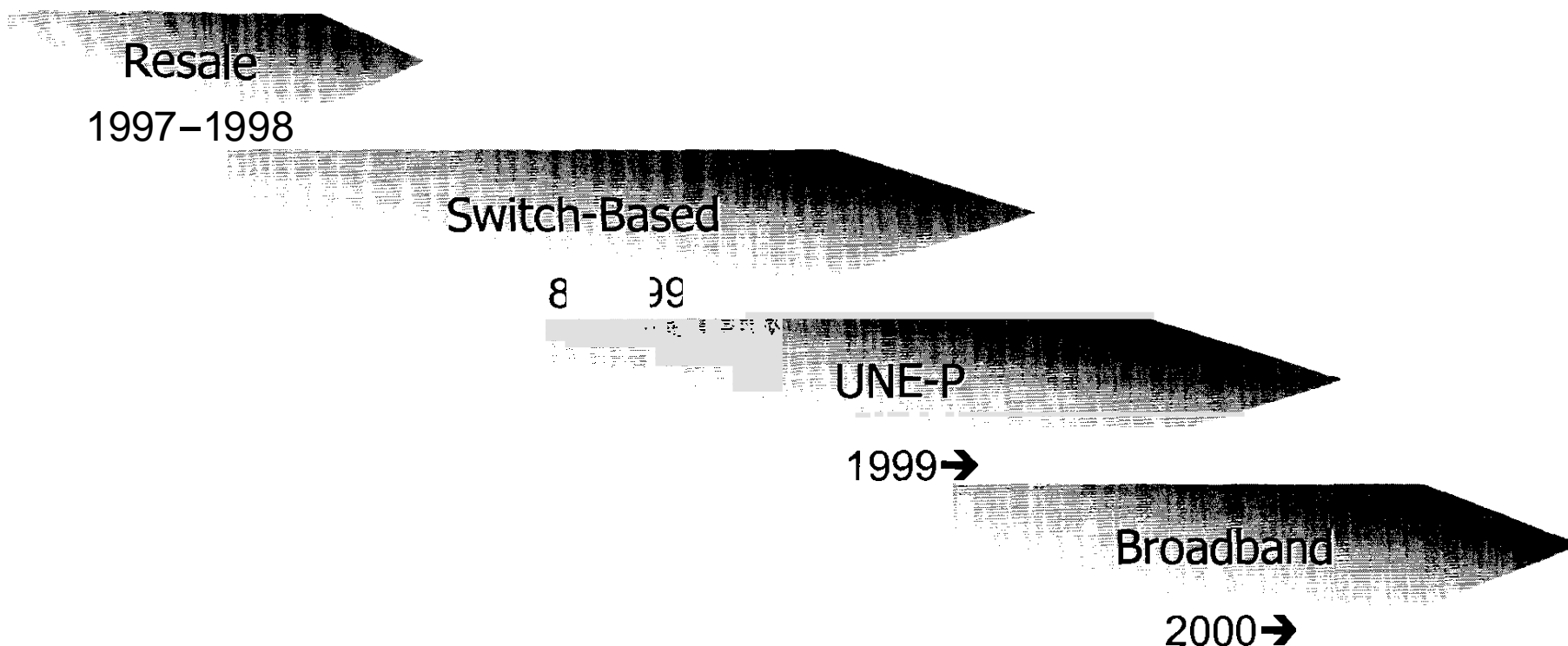
John Ivanuska
Vice President Regulatory & Carrier Relations



Where We Serve



Birch's Service Evolution



- Birch began providing service in St. Joseph, Missouri and smaller communities in Kansas in 1997 through resale.
- Birch installed switches in 1998 in Kansas City, St. Louis, and Wichita.
- Birch was a UNE-P pioneer in Texas, using its experience there to expand with UNE-P to Missouri, Kansas and Oklahoma, and eventually to the states it serves in the BellSouth region.

Birch Uses UNE-P as the Launching Pad to Bring Facilities-Based Competition to the Mass Market



- Birch serves over 100,000 customers with over 350,000 lines through UNE-P.
- Birch serves the lost market - mass market customers and areas that would otherwise not see the benefits of competition.
 - Birch targets small businesses and serves residential customers as well.
 - Birch serves outer suburbs and small towns, as well as the dense business districts of large cities.
 - Unrestricted availability of unbundled switching in its markets has allowed Birch to serve all types of customers throughout a metropolitan area and in smaller towns. Without the ability to serve customers in the most dense portions of big cities, Birch could not afford to serve secondary markets.
- Having established a customer and revenue base through UNE-P, Birch is deploying a next-generation network.

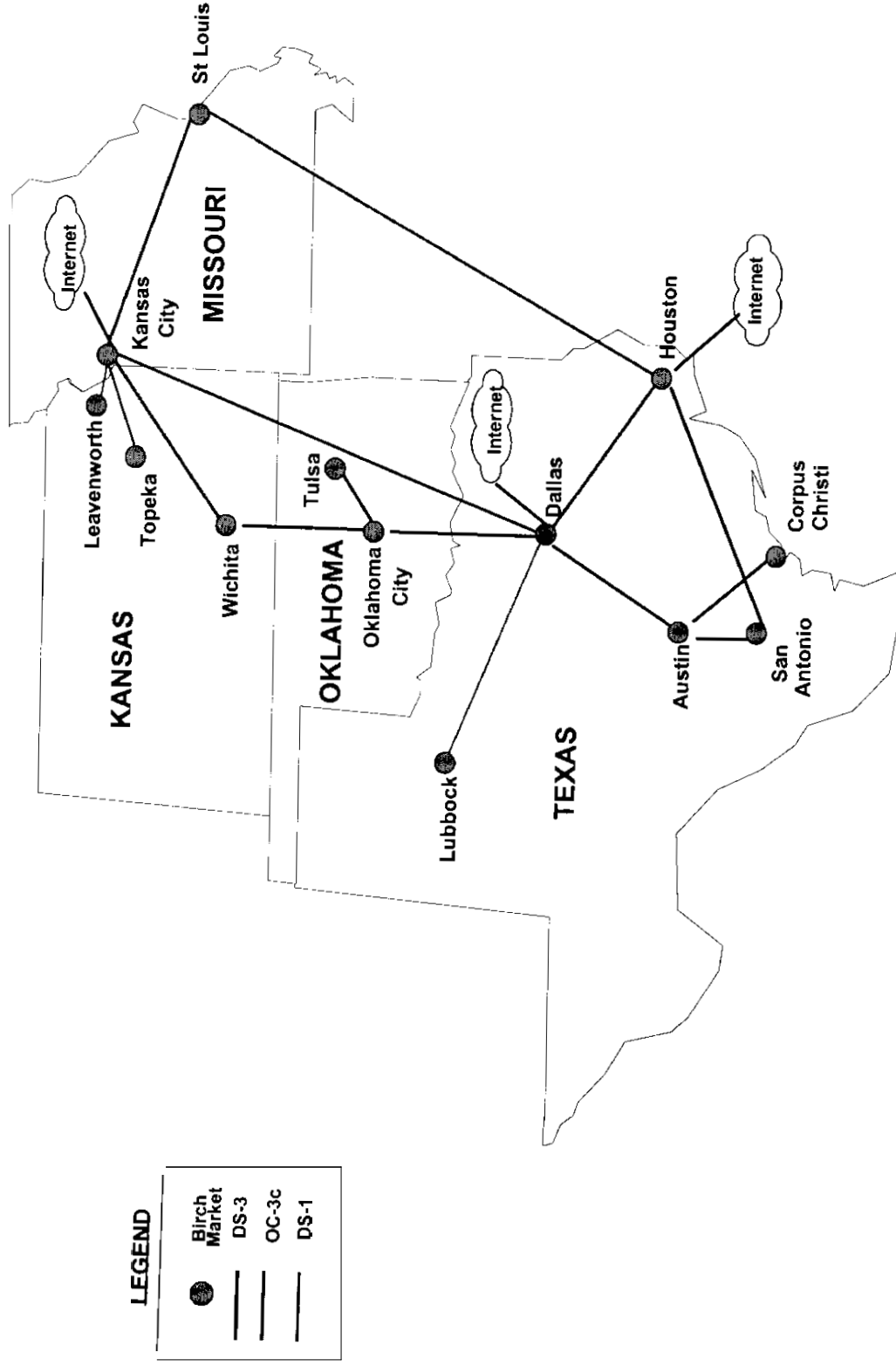
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Birch Uses UNE-P as the Launching Pad to Bring Facilities-Based Competition to the Mass Market (continued)



- Phase I of Birch's facilities-deployment--deployment of a DSL network--has been completed throughout the SWBT region.
 - Birch has deployed its own DSL network throughout the SWBT territory.
 - 158 collocations in place.
 - Provisioning DSL to customers in Texas, Missouri, Kansas, and Oklahoma.
 - Broadest DSL coverage of *any* provider in our markets.
 - ATM switching network operational.
 - Long-distance network operational.
 - Phase II--the deployment of softswitches to enable Birch to provide voice service over its DSL network--is in the planning stages.
 - Have tested various vendors' products in proof of concept laboratory for 18 months.
 - Softswitch is currently being beta tested outside the lab at Birch employee residences.
 - Financial markets must also reopen before softswitch deployment is possible.
 - Neither phase could have been contemplated without the ability to first enter the market through UNE-P.
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Birch's ATM Backbone Network



Birch's Softswitch Proof-of-Concept Lab

- Commissioned in August 2000.
- 2500 square foot central office grade facility.
- Simulates a scale version of the Birch production ATM/DSL network.
- Designed to support 2 concurrent softswitch trials.
- Began first softswitch evaluation in September 2000; second switch installed in August 2001.
- Testing reliability, scalability, feature-set and OSS capabilities.

Birch's Next-Generation Facilities-Based Objectives

- Improve margins through increased network efficiencies, allowing Birch to serve small customers economically over its own facilities.
- Provide compelling new features and services to those who haven't been able to receive them from the incumbent or the "big business" CLECs.
- Bring the tools of big business to Birch small business and residential subscribers.

UNE-P Is Critical for Birch's Transition to Facilities-based Service

- Softswitches are still on the horizon. Full commercial deployment cannot be expected in the near term.
 - UNE-P allows carriers to get into the market now, and begin to build the customer base, revenue stream, and real-world experience that are critical to long-term success.
 - Circuit-switch deployment is not an alternative: it is not viable to serve the mass market and, in any case, there is no funding available for circuit switching and it does not appear that this will change in the foreseeable future.
 - Before the Commission can entertain abandoning UNE-P, the current hot-cut process needs to be made more efficient and economic to handle churn and get cost of hot-cuts down to a reasonable level (in the \$1.00 - 2.00 range)
 - The bottom line: if there is going to be mass market competition for the foreseeable future and until funding is available for broad softswitch deployment, it is going to continue to come from UNE-P providers.
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Birch's Long Term UNE-P Objectives

- Continue to serve those portions of the Birch embedded customer base where softswitches are uneconomic.
 - Continue to serve those portions of the markets currently served by Birch where softswitch is not yet present or is not economically viable.
 - Utilize as the primary geographic expansion tool in secondary and tertiary markets in those RBOC Regions where Birch is already present
 - Utilize as a means of expanding into RBOC Regions not yet served by Birch (e.g., SBC - Ameritech).
 - Utilize as the platform from which to access RBOC AIN switch triggers, thereby enabling the creation of enhanced functionality via remote triggers.
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